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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/585,971

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EXAMINER

DUKE, EMMANUEL E

ART UNIT

PAPER NUMBER

3744

MAIL DATE

DELIVERY MODE

10/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/585,971	Applicant(s) KOLBLIN ET AL.	
	Examiner EMMANUEL DUKE	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/13/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/13/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/13/2006, 3/28/2007, 5/29/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1-9 are objected to because of the following informalities: Claim 1, line 7, recites “accordance with the heat exchanger”, it should read “accordance with one of the heat exchangers”, since there are two adjacent heat exchanger plate disclosed.
2. Claim 2 is objected to because of the following informalities: Claim 2, line 2, recites “the flanks”, it should read “a flank”, since there was no previous definition of the flank. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Wehrmann et al. (U.S. Patent No. 6,530,425), hereinafter referred to as Wehrmann et al. '425.

Regarding claim 1, Wehrmann et al. '425 discloses a heat exchanger (Fig. 1: label 2, Col 3, line 49), especially a stacked plate oil cooler (Fig. 7 & 8: Col 5, lines 47-51), having a plate-type design (Fig. 1: Col 3, lines 36-37), with two adjacent heat exchanger plates (Fig. 5: label 2 & 2a, Col 3, lines 57-65) defining an interspace (Fig. 1: Col 3, line

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45) through which a heat exchanger medium (Fig. 2: Col 4, lines 41-45) or a second medium to be cooled (Fig. 7 & 8: Col 4, lines 4-9) or to be heated flows (Fig. 1: Col 3, lines 42-45), and at one end a base plate (Fig. 3: label 6, Col 3, lines 63-65, wherein an additional plate is a base plate) being provided which is in at least substantially flat contact with the adjacent outermost heat exchanger plate (Fig. 5: label 2 & 2a) of the heat exchanger, wherein the base plate has a depression (Fig. 5: label 11a, Col 5, lines 13-14, wherein section in-between guide channels label 8a & 8b is a depression) with a contour (Fig. 2: label 8a - 8c, Col 4, lines 25-28, wherein guide channel is a contour) running in accordance with the heat exchanger plate (Fig. 5: label 2 & 2a).

Regarding claim 2, Wehrmann et al. '425 discloses the heat exchanger as claimed in claim 1, wherein a flank (Fig. 5: label 13, Col 3, lines 54-57, wherein a raised edge is a flank) of the outermost heat exchanger plate (Fig. 1: label 2, Col 3, lines 54-57) bear, at least in their lower region, against a flank (Fig. 4: label 7, Col 3, lines 63-64, wherein a edge is the a flank) of the contour (Fig. 2: label 8a - 8c) of the base plate (Fig. 4: label 6', Col 4, lines 18-19), which contour runs in a recessed manner (Fig. 2: label 8a - 8c, Col 4, lines 25-28, wherein guide channel of the contour is a recessed manner).

Regarding claim 3, Wehrmann et al. '425 discloses the heat exchanger as claimed in claim 1 wherein one edge (Fig. 5: label 13, Col 3, lines 54-65) of the outermost heat exchanger plate (Fig. 3: label 2) protrudes over the base plate (Fig. 3: label 6).

Regarding claim 4, Wehrmann et al. '425 discloses the heat exchanger as claimed in claim 1 wherein the depression (Fig. 5: label 11a) in the base plate (Fig. 5: label 6/6') is greater than the material thickness of the heat exchanger plate (Fig. 5: label 2 & 2a) of the heat exchanger (Fig. 1: label 2, Col 3, line 49).

Regarding claim 5, Wehrmann et al. '425 discloses the heat exchanger as claimed in claim 1 wherein the depression (*Fig. 5: label 11a*) in the base plate (*Fig. 5: label 6/6'*) is at least as deep as the material thickness of the heat exchanger plate (*Fig. 5: label 2 & 2a*) of the heat exchanger plus half of the clear height between the outermost heat exchanger plate (*Fig. 5: label 2*), which bears against the base plate (*Fig. 5: label 6/6'*), and the second outermost heat exchanger plate (*Fig. 5: label 2a*).

Regarding claim 6, Wehrmann et al. '425 discloses the heat exchanger as claimed in claim 1 wherein the depression (*Fig. 5: label 11a*) in the base plate (*Fig. 5: label 6/6'*) is at least as deep as the material thickness of the heat exchanger plate (*Fig. 5: label 2 & 2a*) of the heat exchanger plus the clear height between the outermost heat exchanger plate (*Fig. 5: label 2*), which bears against the base plate (*Fig. 5: label 6/6'*), and the second outermost heat exchanger plate (*Fig. 5: label 2a*).

Regarding claim 7, Wehrmann et al. '425 discloses the heat exchanger as claimed in claim 1 wherein the contour (*Fig. 2: label 8a - 8c, Col 4, lines 25-28, wherein guide channel is a contour*) in the base plate (*Fig. 5: label 6/6'*) is produced by means of embossing (*Fig. 5: label 6/6', Col 4, lines 25-36*), casting or machining.

Regarding claim 8, Wehrmann et al. '425 discloses the heat exchanger as claimed in claim 1 wherein the base plate (*Fig. 5: label 6/6'*) has at least one supply opening (*Fig. 1, 7 & 8: label 35, Col 4, lines 4-9*) for one of the media.

Regarding claim 9, Wehrmann et al. '425 discloses the use of a heat exchanger as claimed in claim 1 as a charge-air/coolant cooler, exhaust gas cooler, evaporator or oil cooler (*Fig. 1, 7 & 8: label 1, Col 5, lines 47-51*) .

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- U.S. Patent No. 6,161,615 to Brieden et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMMANUEL DUKE whose telephone number is (571)270-5290. The examiner can normally be reached on Monday - Friday; 8:00am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Jules can be reached on 571-272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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EMMANUEL DUKE
Examiner
Art Unit 3744

/E. D./
9/05/08

/Frantz F. Jules/

Supervisory Patent Examiner, Art Unit 3744